

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Barryon Rutherford - 180567

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(In the space above enter the full name(s) of the plaintiff(s).)

18 CV 4872

COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

-against-

Jury Trial: ☒ Yes ☐ No
(check one)

1. Westchester County
2. Manuel Mendoza Food director for Aramark Correctional Services,
3. Penny Stuart of Aramark Correctional Service,
4. Darrell Flax Food Service manager for Aramark Correctional Services
5. Warden Middleton
6. Correctional officer Brown

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Barryon Rutherford
ID # 180567
Current Institution Westchester County Jail
Address P.O. Box 10, Valhalla, NY 10595

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Westchester County Shield # _____
Where Currently Employed Westchester County
Address 145 Martine Ave 6th fl
White Plains, NY 10601

Defendant No. 2 Name Manoel Mendoza Shield # _____
 Where Currently Employed Aramark Correctional Services
 Address 148 Martine Ave 6th FL
White Plains, N.Y. 10601

Defendant No. 3 Name Perry Steward Shield # _____
 Where Currently Employed Aramark Correctional Services
 Address 148 Martine Ave 6th FL
White Plains, N.Y. 10601

Defendant No. 4 Name Darnell Flax Shield # _____
 Where Currently Employed Aramark Correctional Services
 Address 148 Martine Ave 6th FL
White Plains, N.Y. 10601

Defendant No. 5 Name Warden Middleton Shield # _____
 Where Currently Employed Westchester County D.O.C
 Address 148 Martine Ave. 6th FL
White Plains, NY 10601

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?
Westchester County D.O.C

B. Where in the institution did the events giving rise to your claim(s) occur?
East, D-block, A-block, Kitchen

C. What date and approximate time did the events giving rise to your claim(s) occur?
January 10, 2018 to present date

Defendants (Conf D)

6. Correctional officer Brawn
Employed: Westchester County Jail
148 Martine Ave. 6th Fl.
White Plains, New York 10601

D. Facts: I arrived at WexDOC at 1/10/15 I informed them of my religious muslim beliefs and religious diet "muslim"

I was not afforded a muslim diet for app. 35 days and when my muslim meals would arrive I would notice that my meat was pink all the times bloody on the inside. When I complained I was afforded a Bologna or Salami and Cheese Sandwich, but muslim Law prohibits me from eating pork its "Haram". This occurs 3 to 4 times a week more over the food is being served with small portions and has caused me to lose weight and feel fatigued through out the day. The food trays also contain mold are old and some are peeling plastic, more over the food trays always have left over food from previous meals on them. The mold on the food trays comes from the rotten water within the tray seeps out and contaminates the meat trays beneath it. In addition defendants allow inmate kitchen workers to prepare meat and serve without a see cant.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Stomach cramps, weight 105, ~~weight~~ R.B.
Nausea, vomiting, Diarrhea
Nerve pangs
violation of 1st and 8th / 14 Amendment

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

Protective gloves and/or hairnets. Some inmates have long beards and constantly speak over the meal trays they are preparing. The meals are always cold and I seem to always find dead flies in my food. I have been informed that warden Middleton is on notice of these acts with Aramark staff including defendants and through grievances, and other similar lawsuits, but he fails to intervene. As also does Westchester County. The foregoing conduct has been in existence at W.C.U. for over 20 years with litigation back 11 years through

See. , Perez v. Westchester County
Pagan v. Westchester County 12CV7669
Gomez v. Westchester County
Quick v. Westchester County

and over 5 other similar claims have been tried in this very courthouse.

As a result of eating the afore mentioned food I have become sick and ill and suffered several ailments.

On May 19, 2018 while attending Ramadan service defendant Brown became irate after requesting that I assist him with moving food carts, but I refused because I was actively breaking my fast and engaging in my religious service. C.O Brown stated "See what time you get your food tomorrow It would be after your fast."

Just as promised myself and other muslim inmates foods arrived after the required Breakfast time

Because C.O Brown deliberately delayed delivering and/or picking up my meals and others

C.O. Brown came to the masjid and called me and the others terrorists who should be water boarded to death

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Westchester County D.O.C.

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☒ No ☐ Do Not Know ☐

If YES, which claim(s)? All

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☒

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

WCDOC

1. Which claim(s) in this complaint did you grieve? _____

All claims

2. What was the result, if any? _____

Denied

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

Appeal through state commission of correctional

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I tried to submit grievance to Sergeants middleton, sergeant Lopez, sergeant Lambard, and sergeant Matthews, but they refused to accept

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any:

All of the Sergeants above said that our issue is with framework and not W.C.D.C. so they were not accepting the grievances

Also I tried to file said grievance with Sgt Andrews Capt. Caley but he also refused it

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I tried to submit a grievance on Feb. 2 2018 regarding not being given my muslim diet and receiving undercooked foods served on moldered trays along with minimal portions and workers not wearing gloves and officers substituting under cooked food for balance and Salami. I also tried to submit these grievances on March 5, 10 April 18, 21, 22, 23

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

Damages / Relief:

Compensatory \$ 100,000

Nominal / Punitive \$ 100,000

Special damages 100,000.00

from all defendants jointly & severally

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

On these claims

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?
Yes ____ No ☒

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25 day of May, 2018

Signature of Plaintiff

Inmate Number

Institution Address

[Signature]
180567
West Co. Jail
Pro. Box # 10
Valhalla, N.Y. 10595

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 25 day of May, 2018, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

[Signature]

Rayvon Rutherford
JID 180567

P.O. Box #10
Valhalla, N.Y. 10595

USM^{P3}
SDNY



Pro Se

United States District Court
Southern District Court
Attn: Pro Se Clerk
500 Pearl Street
New York, N.Y. 10007

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